

CODE OF ETHICS of the OFFICE of ADMINISTRATIVE LAW

INTRODUCTION

The Code of Ethics of the Office of Administrative Law (Code) establishes the ethical standards for all employee members of the Office of Administrative Law (OAL) including administrative law judges. The term “employee” shall be used inclusively. At the foundation of this Code is the assumption that as public servants it is our responsibility to discharge our duties in a manner that promotes and preserves public trust and confidence in the integrity and impartiality of the OAL. Employees should respect and comply with the law, should observe high standards of conduct, and should participate in establishing and maintaining such high standards. In addition, all public servants must avoid circumstances and outside activities that do not constitute illegal conduct or conflicts of interest, but might, nevertheless, appear questionable to the general public or give the appearance of impropriety.

It shall be the continuing duty of each employee to review and assess his or her conduct in light of the provisions of this Code. Each employee shall seek either in writing or in person the advice of the Director when a reasonable doubt regarding any ethical consideration arises. The Director shall give a timely and appropriate response. If the request is in writing, the Director shall respond in writing to the employee who is seeking advice. In appropriate matters, the Director may request a formal ruling from the Executive Commission on Ethical Standards.

All employees of the Office of Administrative Law are subject to this Code, the provisions of the New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.*, and the standards promulgated by the Executive Commission on Ethical Standards at *N.J.A.C. 19:61-1.1 et seq.* In addition, administrative law judges shall be subject to the Code of Conduct of Administrative Law Judges, which shall supplement and override any less stringent requirements contained herein.

I. Performance of Duties

A. Every OAL employee shall endeavor at all times to perform official duties properly, diligently, and in as courteous a manner as possible.

B. No employee shall alter, falsify, destroy, mutilate, backdate, conceal, or fail to make required entries on any records within the employee's control. This provision does not prohibit alteration or expungement of records or documents pursuant to a court order.

C. No employee shall discriminate on the basis of nor manifest by words or conduct, bias or prejudice based on race, religion, national origin, gender, sexual orientation, age, handicap, marital status or political affiliation in the conduct of service to the OAL.

D. Employees who are attorneys, law students, or members of other professional groups are also bound by the appropriate professional duties of those roles.

II. Abuse of Position

A. No employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for the employee or others.

B. No employee shall accept, solicit, or agree to accept any gift, favor, complimentary service, or anything of value under circumstances from which it might be reasonably inferred that such gift, service, or other thing of value was given or offered for the purpose of influencing him or her in the discharge of official duties. No employee shall accept any gifts, favor, complimentary service, or other thing of value from litigants, attorneys, or witnesses regularly appearing before the OAL.

Unsolicited gifts or benefits of trivial or nominal value such as complimentary articles offered to the public in general do not violate this provision unless circumstances exist which create a reasonable doubt as to the intention with which the benefit or gift was offered.

C. No employee shall discriminate by dispensing special favors to anyone, whether or not for remuneration, nor shall any employee so act that the employee is unduly affected or appears to be affected by kinship, rank, position, or influence of any party or person.

D. No employee shall request or accept any fee or compensation, beyond that received by the employee in his or her official capacity, for advice or assistance given in the course of his or her public employment.

E. No employee shall accept reimbursement from any source other than the State of New Jersey for expenses for attendance at an event of an organization whose members may participate in proceedings at the OAL.

F. Each employee shall use the resources, property, and funds under the employee's official control judiciously and solely in accordance with prescribed statutory and regulatory procedures.

G. Each employee shall immediately report to the appropriate authority any attempt to induce him or her to violate any of the standards set out above.

III. Confidentiality

A. No employee shall disclose to an unauthorized person for any purpose confidential information acquired in the course of employment, or acquired through unauthorized disclosure by another. Confidential information includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning the work product of any judge, law clerk, staff attorney, or other employee, including, but not limited to, notes, papers, discussions, and memoranda.

B. No employee shall either initiate or repeat to the assigned judge prohibited *ex parte* communications from litigants, witnesses, or attorneys. Prohibited *ex parte* communications include discussions about procedural and substantive matters over which a judge exercises judicial discretion. Informing judges about communications with a litigant regarding scheduling a hearing or other similar administrative matters is not a violation of this provision.

IV. Conflict of Interest

A. Every employee shall avoid conflicts of interest, as defined below, in the performance of professional duties. Even though no misuse of office is involved, such a conflict of interest involving an employee can seriously undermine the public's confidence and trust in the administrative process. Every employee is required to exercise diligence in becoming aware of conflicts of interest, disclosing conflicts to the designated authority, and ending them when they arise.

B. A conflict of interest exists when the employee's objective ability or independence of judgment in the performance of his or her job is impaired or may reasonably appear to be impaired or when the employee, the employee's immediate family, or business would derive financial gain as a result of the employee's position in this office. Immediate family includes spouse, child, parent, or sibling.

C. No employee shall advocate or recommend for employment at the OAL any member of his or her immediate family.

D. No employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of the employee's duties in the public interest. Each full-time employee's position with OAL must be the employee's primary employment. Outside employment in any business, profession, trade or occupation, whether compensated or not, is permissible only if it complies with the following criteria and the employee annually discloses the outside employment and/or business interest pursuant to *N.J.A.C. 19:61-2.2(a)*:

1. the outside employment is not with an entity that regularly appears in OAL or conducts business with the OAL, and it does not require the employee to have frequent contact with attorneys who regularly appear in OAL;

2. the outside employment is capable of being fulfilled outside of normal working hours and is not incompatible with or does not interfere with the performance of the employee's duties and responsibilities;
3. the outside employment does not require the practice of law; and
4. the outside employment does not require or induce the OAL employee to disclose confidential information acquired in the course of and by reason of official duties.

V. Activities Unrelated to Employment in the Office of Administrative Law

- A. An employee shall uphold the Constitution, laws, and rules of the United States, the State of New Jersey, and its political subdivisions. An employee shall meet all responsibilities for the payment of federal, state, and local taxes and shall promptly arrange for satisfaction of all final judgments, liens, decrees, or similar court-ordered obligations.
- B. An employee charged with a crime or charged with an offense or motor vehicle violation that would adversely impact on the performance of duties shall report the charge to the Director.
- C. An employee who intends to testify on behalf of an accused in a criminal action, or on behalf of a party that is an adversary to the State of New Jersey in a civil action shall promptly notify the Director.
- D. An employee shall not publish any work or give any speech which impairs the performance of his or her duties or interferes with the operation of OAL or otherwise violates this Code or any OAL policy. Prior to making any off-duty formal written or verbal statement which identifies him or her as an employee of OAL, the employee shall seek the approval of the Director by submitting a copy of the writing or prepared remarks or discussing the topics to be addressed with the Director.

E. Employees are free to engage in volunteer activities on behalf of non-profit charitable, religious, sports, and professional organizations unless such activities could reasonably be expected to impair or appear to impair their independence and objectivity of judgment in the discharge of duties or to interfere with the operation of OAL.

No employee shall make use of his or her employment for the purpose of promoting or advertising any off-duty activity that is either prohibited or permitted by this Code. This shall not prohibit *de minimis* fundraising activities within the confines of the OAL and its employees for non-profit charitable organizations with which employees or their immediate families are associated.

F. No employee shall engage in any political activity during scheduled work hours, or when using government vehicles or equipment, or on OAL property. Political activity includes, but is not limited to:

1. displaying campaign literature, badges, stickers, signs, or other items of political advertising on behalf of any party, committee, agency, or candidate for political office;
2. using official authority or position, directly or indirectly, to influence or attempt to influence any other employee in the OAL to become a member of any political organization or to take part in any political activity;
3. soliciting signatures for political candidacy; and
4. soliciting or receiving funds for political purposes.

No employee shall discriminate in favor or against any employee or applicant for employment on account of political contributions or permitted political activities.

VI. Disclosure

A. An employee who is aware of conduct by himself or herself or any other employee in OAL which violates this Code or State or federal law shall disclose the conduct to the Director.

B. An employee who reasonably believes any activity, policy, or practice of OAL is in violation of a statute, rule, or regulation, or is fraudulent or criminal, or is incompatible with a clear mandate or public policy concerning the public health, safety, or welfare shall disclose the activity, policy, or practice to the Director pursuant to the provisions of the Conscientious Employee Protection Act, *N.J.S.A. 34:19-1 et seq.*

C. It is the duty of employees to appear and testify upon matters directly related to the conduct of their offices, positions, or employment before any state or federal court, grand jury, or the State Commission of Investigation. In no case shall an employee simply refuse to appear and testify. If necessary, a protective order may be obtained with the assistance of the Office of the Attorney General.

Any employee who fails or refuses to appear and testify, after having been informed of his or her duty to appear and testify by the prosecuting attorney, or an attorney for the State Commission of Investigation, as the case may be, shall be subject to removal from his or her office, position, or employment.

VII. Penalties

Employees who violate the provisions of this Code of Ethics shall be subject to removal, suspension, demotion, or other disciplinary action by OAL and may also be subject separately to investigation by the Executive Commission on Ethical Standards and the penalties presently provided in *N.J.S.A. 52:13D-21* or in any analogous statute subsequently provided by legislative action.

This Code of Ethics shall take effect on June 24, 2002, and shall supersede any prior Code of Ethics promulgated by the Office of Administrative Law.